

November 27, 2017

VIA EMAIL

State Water Resources Control Board
Division of Water Rights
Attn: California WaterFix Hearing Team
P.O. Box 2000
Sacramento, California 95812-2000
CWFhearing@waterboards.ca.gov

Re: North Delta Water Agency's Withdrawal of Case-in-Chief Witnesses for Part 2

Dear Hearing Chair Doduc, Hearing Officer Marcus, and California WaterFix Hearing Staff:

North Delta Water Agency, Reclamation District 999, Reclamation District 2060, and Reclamation District 2068 ("NDWA") submitted a Supplemental Notice of Intent to Appear in advance of the October 13, 2017 deadline and identified several witnesses to testify in Part 2. Since the submittal of those notices, the Hearing Team has clarified the scope of Part 2 rebuttal and the way in which Part 1 issues are to be addressed during Part 2. Accordingly, NDWA hereby withdraws certain witnesses for case-in-chief testimony during Part 2.¹

At the pre-hearing conference on October 19, 2017, the Hearing Officers explained that parties may present rebuttal evidence on Part 1 issues that directly responds to another party's Part 2 case-in-chief. In particular, at the conference, the Hearing Officer stated:

Parties may present rebuttal evidence that is in the scope – is within the scope of either Part 1 or Part 2 if it is in direct response to another party's Part 2 case in chief . . . So, again, during rebuttal, parties may present rebuttal evidence that is within the scope of either Part 1 or Part 2 if it is in direct response to another party's Part 2 case in chief.

(October 19, 2017 reporter's transcript (RT), p. 13:2-12.)

The Hearing Officers provided similar guidance in the November 8, 2017 Procedural Ruling. (November 8, 2017 Ruling, at 3.)

¹ The witnesses being withdrawn by NDWA are identified in Attachment 1.

As noted by the Sacramento Valley Water Users' letter dated September 22, 2017, and in discussion at the pre-hearing conference (October 17 RT, pp. 17-20), it is unclear what modeling assumptions or operational criteria – if any – Petitioners will rely on in their Part 2 case-in-chief. In addition, the parties' understanding of the modeling assumptions relied on by Petitioners, and any operational criteria Petitioners may choose to present, may be clarified and refined during cross-examination of Petitioners' Part 2 case-in-chief witnesses.

For these reasons, and based on the Hearing Officers' guidance at the pre-hearing conference and in the November 8 Ruling, the NDWA withdraws the witnesses listed on Attachment 1 from its case-in-chief and expects to submit rebuttal evidence, if necessary.

Thank you for consideration of this matter.

Very truly yours,

DOWNEY BRAND LLP



Meredith E. Nikkel
Kevin M. O'Brien

cc: CA WaterFix Service List

Attachment 1

Withdrawn NDWA Witnesses

Shankar Parvathinathan, MBK Engineers

Gary Kienlen, MBK Engineers

Walter Bourez, MBK Engineers

Dan Easton, MBK Engineers

Melinda Terry

Steve Mello

Bryan Busch

Tom Slater

Jack Kuechler

STATEMENT OF SERVICE

CALIFORNIA WATERFIX PETITION HEARING

Department of Water Resources and U.S. Bureau of Reclamation (Petitioners)

I hereby certify that I have this day submitted to the State Water Resources Control Board and caused a true and correct copy of the following document:

Letter dated 11/27/17 Re: North Delta Water Agency's Withdrawal of Case-in-Chief Witnesses for Part 2

to be served by **Electronic Mail (email)** upon the parties listed in Table 1 of the **Current Service List** for the California WaterFix Petition Hearing, dated November 22, 2017, posted by the State of Water Resources Control Board at http://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfix/service_list.shtml:

Note: In the event that any emails to any parties on the Current Service List are undeliverable, you must attempt to effectuate service using another method of service, if necessary, and submit another statement of service that describes any changes to the date and method of service for those parties.

For Petitioners Only:

	I caused a true and correct hard copy of the document(s) to be served by the following method of service to Suzanne Womack & Sheldon Moore, Clifton Court, L.P., 3619 Land Park Drive, Sacramento, CA 95818: Method of Service: _____
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I certify that the foregoing is true and correct and that this document was executed on November 27, 2017.

Signature: 

Name: Catharine Irvine

Title: Legal Secretary

Party/Affiliation: Downey Brand, LLP

Address: 621 Capitol Mall, Sacramento, CA 95814